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Title: The Role of International Developmental Partners in Impact Assessment & Implementation – Experiences from Nepal

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Abstract:

Large-scale infrastructure development projects are vital for Nepal's economic growth and development. However, they also come with significant environmental and social impact risks that must be adequately assessed and mitigated. In Nepal, International Developmental Partners (IDPs) play a crucial role in supporting such projects by providing funding, technical assistance, and guidance on environmental and social impact assessment and management. This paper examines the role of IDPs in the environmental and social impact assessment and implementation of large-scale infrastructure development projects in Nepal with case studies of some of the high-voltage transmission lines (TLs). It also analyzes the challenges and opportunities of involvement of those agencies in impact assessment and implementation as well as provides a way forward for the environmental and social sustainability of such projects

Background

Nepal is a landlocked country in South Asia and is bordered by China and India. Within its 147,516 square kilometers of land area, Nepal has a diverse geography, including fertile plains, subalpine forested hills, and eight of the world's ten tallest mountains, including Mount Everest, the highest peak on Earth. Moreover, Nepal's population of 29.16 million people is multi-ethnic, multi-cultural and multi-lingual, with 126 castes and ethnic groups speaking 123 languages (CBS, 2021).

Nepal is a developing country with significant infrastructure development needs. For about seven decades now, international development cooperation has been contributing to the overall development efforts of Nepal. Nepal will have to utilize it to pursue high and sustainable economic growth and achieve the goal of "Prosperous Nepal, Happy Nepali". (MoF, 2019)

In the FY 2020/21, ten development partners (DPs) contributed approximately 93.25 percent of Official Development Assistance (ODA) to Nepal. Multilateral development partners and bilateral development partners contributed 73.05 and 26.95 percent of all ODA respectively. The major disbursing multilateral partners were the World Bank, the Asian Development Bank, the European Union, the United Nations (UN) and GAVI, the Vaccine Alliance; whereas the major disbursing bilateral development partners were the United States of America, the United Kingdom, India, Japan and Germany. (MoF, 2021)

In the fiscal year 2020/21, the largest amount of ODA was allocated to the energy sector, with a total of US\$ 297.43 million or 17.66 percent of all ODA. The next highest allocations were made to road transportation (15.03%), health (13.22%), education (12.99%), and reconstruction (8.47%). (MoF, 2021)

The Environmental Protection Act (EPA), 2019 of Nepal is a legislation aimed at protecting and preserving the environment. It replaces the earlier EPA, 1997 and incorporates new

provisions to address emerging environmental issues. As the earlier EPA, the 2019 EPA has also mandated Environmental Assessment (EA) for any developmental project. According to the Act, any person or organization planning to undertake such project likely to have environmental impacts must conduct an EA.

Although EA has been legally mandated and institutionalized in Nepal, the legal regime has not been able to capture the emerging dimensions of development and environment. These includes the assessment of cumulative impact of multiple developmental projects or the specific biodiversity impacts. However, these have been practiced for the IDP funded projects in the country.

The role of IDPs is very crucial in supporting for the EA and implementation in Nepal as they provide financial and technical assistance to the government to undertake such assessments and implement them effectively. Amid this, there are some challenges in EA and its implementation supported by these partners. Therefore, this paper attempts to critically analyze the challenges and opportunities of involvement of IDPs in EA and its implementation particularly in the case of Nepal.

Role of IDPs in Impact Assessment & Implementation

From the early 1980s, the IDPs played important roles in introducing and institutionalizing the environmental and social (E&S) aspects of the developmental activities in Nepal. These attempts were made for E&S sustainability of mainly IDP funded projects. However, there was no any such provision in the national legal regime. With such requirements of IDPs, the GoN started realizing the need of E&S aspect in developmental projects. Beginning from 1980s to date, IDPs and GoN collaborated for the formulation of environment related national policies and legislations, preparation of National EIA Guidelines, 1993; preparation of sector specific EIA guidelines/manuals, as well as for internalizing the institutional set up within the government agencies. For instance, for the initiation of World Bank funded proposed Arun-III Hydropower Project and its access road, Environmental Unit was established in Nepal Electricity Authority (NEA) in 1987 (ESSD, 2022) and Environmental Management Unit (EMU) was established under Department of Roads in 1988 (DOR, 2013).

In due course of time, involvement of these partners played a crucial role in the environmental and social safeguard implementation in Nepal. In addition to the preparation of EA Report under the national legal regime, different environmental and social assessment tools, though legally not mandated but required by IDPs, have been practiced by the government agencies like NEA.

In this context, a report on 'Cumulative Impact Assessment and Management: Hydropower Development in the Trishuli River Basin (TRB), Nepal' was developed by the International Finance Corporation (IFC), the World Bank Group in 2020. This is probably the first comprehensive CIA report in Nepal prepared for 216 MW Upper Trishuli-1 Hydropower Project. Recently in 2023, the Biodiversity Impact Assessment (BIA) and Cumulative Impact Assessment (CIA) of an under-construction Marsyangdi Corridor 220 kV Transmission Line with a total length of 109.70 km has been carried out by Environment and Social Studies Department (ESSD), NEA. Similarly, many of the hydropower development and transmission line (TL) projects implemented by NEA have prepared additional safeguard documents including Resettlement Plan (RP), Indigenous People's Plan (IPP), Land Acquisition and

Compensation Plan (LACP), Stakeholder Engagement Plan (SEP) and study reports on birds, specific animals and others.

With the involvement of IDPs in impact assessment and project development, the environmental and social considerations of project development are prioritized, emphasized the public participation, meaningful consultation and socio-economic development of affected community, especially the indigenous and marginalized groups.

Taking an example of under-construction World Bank funded 288 km long Hetauda-Dhalkebar-Duhabi 400 kV Transmission line project, in addition to the compliance of the requirements of nationally approved EA (Initial Environmental Examination, IEE) Report, the following additional measures have been taken by NEA focusing on the affected HHs and nearby communities during the implementation of Vulnerable Community Development Plan (VCDP) and Resettlement Action Plan (RAP) Reports prepared for the project.

- Conduction of level-1 skill development training in various fields like building electrician, plumbing, tailoring to 114 individuals from each household (HH) of indigenous and/or vulnerable groups/communities, either affected by or located nearby the project area for their livelihood improvement.
- Support to nine community schools located within 1 km periphery of TL by providing educational/sports materials and other office equipment.
- Support to Dalit and marginalized/vulnerable/indigenous households located nearby the TL in water, health and sanitation sector by constructing 20 toilets, and 12 tube-wells. In addition, the small scale infrastructure development supports like construction of religious sites, river training for flood control, erosion control, and rural electrification were implemented for those beneficiaries throughout the project impact area.
- The RAP implementation permitted the non-titleholder land owners to get the compensation amount of their land under acquisition from the project, otherwise not entitled by the current legal provision of Nepal.

The stringent guidelines of WB, regular monitoring and follow up resulted into the effective implementation of most of the mitigation and enhancement measures mentioned on the ESS documents prepared for the project.

Major Challenges

Although many E&S benefits have been realized because of the involvement of IDPs in large-scale infrastructure development projects in Nepal, some of their limitations and challenges cannot be neglected. Some of the challenges associated are broadly categorizes as follows:

- ***Harmonization of Policies***

One of the big challenges faced during IA and implementation of IDP funded projects is the gap between E&S safeguard requirements of IDPs and Nepal Government. Some of the gaps realized/experienced during the implementation of energy related hydropower and high-voltage TL development projects are highlighted as follows.

ESS 7 (Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities) of World Bank is triggered when these targeted groups are impacted by the

developmental projects. ESS 7 assumes that these groups are the distinct social and cultural groups possessing self-identification as members of a distinct indigenous social and cultural group; collective attachment to geographically distinct habitats, ancestral territories, or areas of seasonal use or occupation; customary cultural, economic, social, or political institutions that are distinct or separate from those of the mainstream society or culture; a distinct language or dialect (World Bank, 2016). But, in Nepal the indigenous people are defined mostly on the caste basis. Similarly, National Foundation of Indigenous Nationalities (NFDIN), has recognized 59 different nationalities as IPs/ethnic groups of Nepal comprising about 37.2% of the country's population. As they are widely distributed throughout the country, there are hardly any projects in Nepal without any impact on such categories of indigenous people. This creates a challenge in implementing ESS 7 requirements of the World Bank including FPIC. The critiques often raise the question of effective ESS 7 implementation in Nepal.

- ***Discrimination Among Project Affected Families (PAFs)***

As per the prevailing legal instrument, there is no provision for providing compensation of land possessed by encroachers and non-title holders. However, there are cases from most of the IDPs involved projects in Nepal, on which the compensation of non-titled land has been compensated to such land holders in the case of acquisition of those land parcels for the project development purpose. On the contrary, in other projects developed by the nation where IDPs are not involved, such land holders are not entitled for compensation. Therefore, there seems differential treatment and discrimination within the country.

- ***Additional Financial Liability***

For compensating the land under right-of-way (RoW) of the high-voltage TLs in Nepal as well as to provide the resettlement and rehabilitation assistance to PAFs, there is lack of specific legislation. The current practice is to provide 10-25% of the evaluated cost of land to the project affected families under RoW of the transmission line on case-to-case basis. This is being provided as an easement fee and the land ownership is not transferred to the project. In such cases, there are reservations from the IDPs.

Taking an example from HDD 400 kV and BB 220 kV TLs, in the initiation of World Bank it has been proposed to provide additional 10-30% of the evaluated cost of land to 5654 land parcel owners under RoW as well as to provide additional resettlement and rehabilitation assistance (house rent, transportation and dislocation allowances) to 197 owners of 255 project affected structures.

The total estimated cost for the implementation of above-mentioned additional activities is US \$ 43.6 million, which is 25.9% of the project cost (US \$ 168 million), which was not assumed previously during the project cost estimation (NEA, 2021). Moreover, the additional budget required for its implementation has to be borne by the government. Such case has created additional financial burden for developing nation like Nepal. There is a big challenge to manage this huge amount, as one of the projects is now in the final stage of completion. The interaction with the higher management officials of NEA and concerned Project Managers reveals that it is very difficult, almost impossible, for the GoN and NEA to implement it in the present financial difficulty situation of the country.

- **Organization capacity**

There is limited organizational capacity of many of the government organizations in terms of competent human resource for the E&S safeguard implementation. Therefore, it is very important to consider existing human resource capacity and its development by IDPs and the host country for effective implementation of their E&S safeguard requirements. In many of the cases, this seems to be undermined from both the sides.

- **Others**

In addition to the above-mentioned challenges, sometimes the IDPs are also blamed for focusing more on the E&S safeguard implementation than the physical project construction progress; mostly focusing on E&S compliance, and sometimes recommending for institutional rearrangement. Such recommendations may have long term impacts on the organizational structure and functioning.

Conclusion and Way Forward

Nepal is getting larger benefits because of the involvement of IDPs in the infrastructure development projects within the country. These partners are providing funding and technical expertise for project development, initiated the mechanism for in-depth E&S assessment in addition to the country's minimum legal requirements, assisted for the effective implementation of mitigation/enhancement measures, enhanced the E&S benefits to the project affected families and many more. However, the involvement of these partners in infrastructure development projects have come up with some challenges like harmonization of IDPs' policies in national context, management of additional financial cost needed for the implementation of E&S safeguard requirements; disparity among the PAFs for the project supported by IDPs and nationally funded project; inadequate organizational capacity development etc.

In order to overcome these limitations and challenges, there is a need for harmonization of some E&S policy requirements of IDPs prepared for the global perspective to fit the Nepalese context. Similarly, the country needs to formulate and enforce new national policies/legislations in order to avoid disparity among the project affected peoples. Moreover, the additional financial support from the IDPs for implementing their E&S requirements as well as for the organizational capacity strengthening of host country would be greatly helpful.

The challenges and opportunities of involvement of IDPs in developing countries for developmental projects should be carefully considered to ensure that the environmental and social benefits outweigh the potential risks. It is important to balance these factors in order to ensure that development projects are sustainable, effective, and suitable to meet the national needs of the country.

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